

SIKKIM GOVERNMENT



GAZETTE

EXTRAORDINARY
PUBLISHED BY AUTHORITY

Gangtok

Friday 9th April, 2010

No. 138

IN THE HIGH COURT OF SIKKIM
GANGTOK

NOTIFICATION

No.02/JUDL/HCS

Dated.05/04/2010

In exercise of the powers conferred by Section 8 of the High Court of Judicature (Jurisdiction and Powers) Proclamation of 1955 as amended by the Adaptation of Sikkim Laws (No.1) order 1975 and all other powers enabling in this behalf, the High Court of Sikkim makes the following rules to amend the Sikkim High Court (Practice and Procedure) Rules, 1991.

1. Short Title and Commencement.

- (a) These Rules may be called the "Sikkim High Court (Practice and Procedure) Amendment Rules, 2009.
- (b) These Rules shall come into force with immediate effect.

Amendment of Rule 61

- (i) The heading of Rule 61 shall be deleted and be substituted by the following: -
"Procedure when any of the parties in an appeal is a minor".
- (ii) The words "used on" appearing after the words "note to be" shall be deleted and substituted by the words "appended to".

Amendment of Rule 62.

The existing Rule 62 shall be deleted and be substituted as follows: -

"Whenever a Judge or a Bench considers it necessary to appoint a next friend or a guardian of a minor appellant in an appeal, or of a minor respondent and an order to that effect is passed, the Registrar or Deputy Registrar shall make the necessary corrections in the memorandum of names of parties in the appeal".

Amendment of Rule 63

In the heading of Rule 63 the word "not" be inserted after the word "appeal".

Amendment of Rule 88

The words "fifty rupees" appearing after the words "Court fee" shall be deleted and be substituted by the words "Rupees two hundred and fifty".

Amendment of Sub-rule (2) of Rule 93.

The full stop before the last sentence beginning with the words "In that case" in Rule 93 be deleted and the sentence shall continue with the words "and a notice shall" be inserted in place of the words. "In that case notice also".

Amendment of Sub-rule (3) of Rule 93.

The words "in the circumstances of the case may be seen to be proper" be deleted and be substituted by the words "may be deemed appropriate in the circumstances of the case".

Amendment of Sub-rule (4) of Rule 93.

The words "shall so far as may be applied" appearing after the words "1973" in Sub-rule (4) of Rule 93 be deleted and be substituted by the words "shall be followed as may be found applicable".

Amendment of Sub-rule (5) of Rule 93.

The words "order a person named in the warrant to accompany the person to whom the warrant is directed to assist him in the execution of the warrant", shall be deleted and be substituted by "name the person in the warrant for the assistance of the person to whom the warrant is directed for its execution".

Amendment of Rule 94.

The word "the" preceding with the word affidavit shall be deleted and substituted by "an".

Amendment of Rule 96.

After the words "Court of Sessions" appearing in the last sentence the words "or Chief Judicial Magistrate" be inserted.

Amendment of Rule 101.

The words "C.W.P. 1" after the word "Form" be deleted and be substituted by the words "F-11".

Amendment of Rule 109.

In Sub-rule (1) of Rule 109 the words "C.W.P.2" appearing after the word "Form" be deleted and substituted by the words "F-12".

Amendment of Rule 111.

Sub-rule (2) of Rule 111 be deleted.

Amendment of Rule 112.

The words "Written statement" appearing in the heading of Rule 112 be deleted and substituted by the words "Counter Affidavit"

The words "written statement" appearing in Sub-rule (1), (2) and (3) be deleted and substituted by the words "counter affidavit".

Amendment of Rule 112 A

The existing Rule 112A be renumbered as Rule 113. The existing Rule 114 shall be renumbered as Rule 113A and the existing Rule 113 be renumbered as Rule 114.

In Rule 114 renumbered as Rule 113A the words "C.W.P.3" appearing after the words "Form" in the fourth sentence be deleted and substituted by the words "Form-13".

Amendment of Rule 115.

- (i) In the heading to Rule 115 the words "the first" shall be deleted and substituted by the word "all". After the words "shall be prepared" the words "by the Registry unless otherwise ordered by the Court" shall be inserted.

Amendment of Rule 116.

In the heading to Rule 116 the words "the first" shall be deleted and substituted by the word "all". After the words "shall be prepared" the words "by the Registry unless otherwise ordered by the Court" shall be inserted.

Amendment of Rule 117.

In Rule 117 at the end after the words "shall consist of", the words "such number of parts as may be found necessary and which shall contain the following" be inserted.

In Rule 117 after the existing sub-clause (vi) a new sub-clause (vii) shall be inserted which shall read as follows:

- (vii) "All documents which have been duly exhibited and proved by either party in the trial Court, and such other documents which may be allowed by the Court".

Thereafter in Rule 117 a proviso be added as follows:-

"Provided that Part 1 of the appeal shall consist of the Pleadings of the parties, Issues, Judgment, Decree and the other volumes may consist of such other necessary records as provided above".

Further, in Rule 117 a new sub-rule (2) be inserted and be read as follows:-

117(2) "Each paper book shall contain an index as prescribed in Form 14 of Schedule A appended to these Rules".

Amendment of Rule 118 A.

In Rule 118A the following heading be inserted "Custodian of all disposed of and current judicial records".

In Rule 118A the words "Assistant Registrar" (Judicial) appearing in sub-rules (1), (2), (3) & (4) be deleted and be substituted by the words "Deputy Registrar" wherever they occur.

Amendment of Rule 119.

In Rule 119 the words "by the Registry unless otherwise ordered by the court", shall be inserted after the word "vernacular".

Amendment of Rule 122.

In Rule 122 the words "one hundred rupees" appearing after the words "sum of" shall be deleted and be substituted by the word "as per the rates specified in schedule A appended hereto".

Amendment of Rule 123.

In Rule 123 the; (semicolon) appearing after the words "fifteen days" in sub-rule 1 be deleted and the words "at the rate prescribed in the Schedule A hereto" be inserted.

In the "Note:-"appearing at the end of Rule 123, the words "five hundred rupees" appearing after the word "exceeds" be deleted and be substituted by the words "Rupees two thousand and five hundred only".

Amendment of Rule 126.

In Rule 126 the words "one rupee" appearing after the words "purchased at" shall be deleted and be substituted by the words "at the rate prescribed in the Schedule "A" appended to these Rules".

Amendment of Rule 128.

In Rule 128 the word "foot" appearing after the words "At the" shall stand deleted and be substituted by the word "end".

Amendment of Rule 132.

In Rule 132 the word"/photocopy" shall be inserted after the word "/Cyclostyled".

Amendment of Rule 134.

In Rule 134 the word "fifty" appearing after the word "Rupees" be deleted and be substituted by the words "two hundred and fifty only".

The letter 'B' appearing after the words "specified in the Schedule", be deleted and be substituted by the letter "A".

The words "PART 'A' of this chapter" appearing after the word "of" shall be deleted.

In sub-rule (2) of Rule 134 the words "ten rupees" appearing after the words "sum of" be deleted and be substituted by the word "Rupees fifty only".

Amendment of Rule 137.

In Rule 137 the words "five rupees a copy" appearing after the words "purchased at" be deleted and be substituted by the words "the rates prescribed in Schedule A appended hereto".

Amendment of Rule 138.

In Rule 138 the word "foot" appearing after the words "At the" shall be deleted and be substituted by the word "end".

The word"/photocopied" shall be inserted after the word "/Cyclostyled".

Amendment of Rule 140

Rule 140 under "PART C – THE TRANSLATION OF CERTAIN VERNACULAR DOCUMENTS PRESENTED TO THE HIGH COURT", shall be deleted and substituted by the following:-

"140: Translation of vernacular documents:- All documents if filed in local vernacular languages in any proceeding filed in the High Court shall be translated to English and subject to sub-rule (4) of rule 142, the expense(s) of such translation shall be borne by the concerned parties.

Provided that the Court may exercise its discretion to exempt any party from making such payment as it deems fit."

Amendment of Rule 141.

In Rule 141 the words "by the Translation Section of the Registry of the High Court" shall be inserted after the words "be made". Further, the words "such agency" appearing after the words "certified by" shall be deleted and substituted by the words "by such officer of the Registry". The words "ten rupees" appearing after the word "exceed" shall be substituted by the words "Rupees twenty".

Amendment in CHAPTER V "JURISDICTION"

The word "AGRUMENTS" appearing after the words "RELATING TO" shall be deleted and substituted by the word "ARGUMENTS".

Amendment of Rule 143

In sub-rule (1) of Rule 143 the word "postponement" appearing after the words "application for" shall be deleted and substituted by the word "adjournment". In sub-rule (2) of Rule 143 the word "postponed" appearing after the words "may be" shall be substituted by the word "adjourned".

Amendment of Rule 153

In sub-rule (iv) of Rule 153 the words for the "time being" occurring after the words "Chief Justice" shall be deleted.

In sub-rule (xi) of Rule 153 after the words "Registrar means" the words "and includes the Registrar General" shall be inserted before the words "of the High Court". Further, the word "Registrar" appearing before the words "of the High Court" shall be deleted.

Amendment of Rule 155

In sub-rule (2) of Rule 155 the word "the" occurring after the words "or in" shall be deleted.

Amendment of Rule 156

In Rule 156 the words "two thousand rupees" occurring after the words "a sum of" shall be deleted and substituted by the word "Rupees ten thousand only".

Amendment of Rule 157.

In Rule 157 the words "one thousand rupees" occurring after the words "a sum of" shall be deleted and substituted by the word "Rupees five thousand only".

Amendment of Rule 158

In Rule 158 sub-rules (2) and (3) "Form 'A' and Form 'F'", Rule 159 sub-rule (c) "Form B", Rule 159 sub-clause (d) "Form C", Rule 163, "Form D," and Rule 169, sub-rule (4) "Form E", shall be deleted and renumbered as Forms 14 to Form 19" respectively.

Amendment of Rule 158 and 159.

In Rule 158 and 159 wherever the words Forms A,B,C,D,E or F occurs, the words "relating to the Chapter VI" shall be added thereof.

Amendment of Rule 159.

In sub-clause (a) of Rule 159 the word "by" appearing after the word "petition" shall be deleted.

Amendment of Rule 160

In sub-rule (3) of Rule 160 the words "page by page and line by line" occurring after the word "original," shall be deleted and substituted by "and all copies of the petition shall be exact copies of the original".

Sub-rule (4) of Rule 160 shall be deleted and substituted by the following:-

"The original petition, the copies thereof, the Annexures and Schedules if any, shall be paginated legibly".

In sub-rule (5) of Rule 160 the words "A cleanly typed, cyclostyled or printed index will be put at the top of the petition showing" shall be deleted and be substituted by the following:-

"All petitions shall contain an index indicating" before the words "the serial number".

In sub-rule (6) of Rule 160 the words "the" and "Language" occurring before and after the word "English" respectively, shall be deleted.

In sub-rule (7) of Rule 160 the word "dos" appearing after the word "petition" shall be deleted and substituted by the word "does".

In sub-rule (7) of Rule 160 the word "really" occurring after the word "matters" in the last sentence shall be deleted.

Amendment of Rule 170.

In Rule 170 the word "diet" appearing after the word "residence", shall be deleted and substituted by the word "daily". The words "the scale indicated below subject to the conditions indicated in the notes thereunder:-" shall be deleted and substituted by the words "the rates prescribed under the Sikkim State Travel Allowance Act 1980 as amended from time to time."

Amendment of Rule 174

Rule 174 shall be deleted and substituted by the following:-

"The office shall check, paginate and index each case file before the case is sent to the designated Judge a day before each date fixed for hearing".

Amendment of Rule 175

In Rule 175 the words "uncertified carbon" appearing after the words "may allow" shall be deleted.

Further, the chart of classification of witnesses of "CLASS I witness" to "CLASS IV" appearing thereafter, shall be deleted.

Amendment of Rule 183.

"Form I" mentioned in Rule 183 sub-Rules (2) and (5), "Form IV" mentioned in Rule 183 sub Rules(3), "Form II" mentioned in Rule 188, and "Form III" mentioned in Rule 193, shall be renumbered as "Form 20," "Form 21," "Form 22", and "Form 23" respectively and shall be incorporated in the Schedule to the Rules.

Amendment of Rule 200.

In Rule 200 the words "label of two rupees" appearing after the words "court-fee" shall be deleted and be substituted by the words "Rupees ten only".

In Rule 200 sub-clause (a) and (b) shall be deleted and substituted by the following:-

(a) If ordinary inspection ——— a court-fee of Rupees ten only.

(b) If urgent inspection on the date of hearing or on a day other than the date of hearing —
—— a court-fee of Rupees twenty only.

In Note-1 under Rule 200 the words "as such" appearing after the words "Prosecutor" shall be deleted.

In Note-2 the words "but fees will have to be paid incase of a" shall be deleted and be substituted by the word "except in the following cases:"

Amendment of Rule 201.

In Rule 201 after the words "Assistant Registrar (Judl.) or" the words "Deputy Registrar (Judl.) or" shall be inserted.

The word "desired" appearing in sub clause (a) and (b) of Rule 201 be deleted and substituted by the words "applied for"

Rule 202 shall be deleted.

Amendment of Rule 203.

In Rule 203 the present heading shall be deleted and be substituted by the words, "Restrictions in marking on records" :-

In Rule 203 the words "and no servant of any member of the bar," up to "of his master," appearing after the words "or paper inspected" and the words "but pencil copies" appearing after the words "is strictly prohibited" up to the words "may think fit" shall be deleted.

Amendment of Rule 205.

In Rule 205 the words "is desired" appearing after the word "record" shall be deleted and be substituted by the words "if applied for".

Rule 206 shall be deleted.

Amendment of Rule 207.

Rule 207 shall be deleted and be substituted by the following:-

Procedure for ordinary and urgent applications:- Ordinary applications shall be taken up in the ordinary course of business.

Urgent applications shall be disposed of at once, by the office.

Amendment of Rule 208.

In Rule 208 the heading shall be deleted and be substituted by the words "Advance notice for inspection:-".

The word "record" appearing after the word "pending" shall be deleted and be substituted by the word "matter".

The words "Deputy Registrar (Judl.) or" shall be inserted after the words "Assistant Registrar (Judl.) or". The words "twenty four hours notice" appearing after the words "by the Registrar" shall be deleted and be substituted by the words "a days notice".

The words "in writing in the application" appearing after the words "twenty four hours notice" shall be deleted.

The word "desired" appearing after the words "on which it is" shall be deleted and be substituted by the words "applied for".

Rule 209 and Rule 210 shall be deleted.

Amendment of Rules 212, 213, 214 and 215.

The word "suit" wherever appearing in Rules 212, 213, 214 and 215 shall be deleted and be substituted by the word "proceeding".

Note to Rule 212 shall be deleted.

Amendment of Rule 217.

In Rule 217 the heading "Mode of presenting" shall be deleted and be substituted by the words "Presentation of application".

The words "save as otherwise provided in these Rules" shall be inserted before the words "Copies or translation".

The words "one rupee" appearing after the word "Court-fee label of" shall be deleted and be substituted by the word "Rupees ten". The word "Label" appearing after the word "court Fee" shall be deleted.

Amendment of Rule 218.

In Rule 218 the word "particulars" appearing in the heading shall be deleted and be substituted by the word "applications".

Amendment of Rule 219.

In Rule 219 the word "proper" appearing after the words "translation, the" shall be deleted and be substituted by the word "concerned".

In sub-Rule (3) the words "Official in-charge" and "Officer-in-charge" shall be deleted and be substituted by the words "Concerned Officer".

In sub-Rule (3) the words "without delay send the record to the Copyist" shall be deleted and be substituted by the words "send the record to the Copyist expeditiously".

In the Note of Rule 219 the words "Deputy Registrar (Judl.) or" shall be inserted after the words "Assistant Registrar (Judl.) or".

Amendment of Rule 220.

In Rule 220 the heading shall be deleted and be substituted by the following words:-

"Procedure for disposal of applications".

In sub-rule (3) the words "form (F.1)" shall be deleted and be substituted by the word "Form (F.20)" and the following words "as appended to this Chapter" shall be deleted.

Amendment of Rule 221.

In Rule 221 the word "Unattested" appearing in the heading and the opening sentence, shall be deleted and be substituted by the word "Uncertified". The word "one rupee" appearing after the words "at the rate of" shall be deleted and be substituted by the words "Rupees three".

Amendment of Rule 222.

In Rule 222 sub-clause (a), the words "one rupee fifty paise" shall be deleted and be substituted by the words "Rupees three only".

In sub-clause (b) of Rule 222 the words "five rupees" shall be deleted and be substituted by the words "Rupees fifty only". The words "ten rupees" shall be deleted and be substituted by the words "Rupees hundred only".

Sub-rules (2), (3) and (4) of Rule 222 shall be deleted.

Rule 223 and Rule 226 shall be deleted.

Amendment of Rule 230 to 240.

In Rule 230 to 240 the words "Hon'ble the" appearing before the word "Chief Justice" and "Hon'ble" appearing before the word "Judges" be deleted.

Amendment of Rule 231.

In Rule 231 the words "Full Court" shall be inserted after the words "disposed of at a" and the words "of the Hon'ble Judges" appearing after the words "meeting" shall be deleted.

In sub-clause (xi) the words "of the Hon'ble Judges" shall be deleted and the words "Full Court" shall be inserted after the words "Chief Justice to a".

Amendment of Rule 232.

In Rule 232 the words "Full Court" shall be inserted after the words "branch to a" and before the words "meeting of the".

Amendment of Rule 233

In Rule 233 the words "Full Court" shall be inserted before the word "meeting" and the words "of all the Hon'ble Judges" appearing after the word "meeting" shall be deleted.

Amendment of Rule 234.

In Rule 234 the word "Judges" appearing in the heading shall be deleted and the words "Full Court" shall be inserted before the word "meetings".

In Rule 234 the words "Full Court" shall be inserted after the words "Quoram of" in the heading and the word "Judges" shall be deleted therefrom.

After the words "At all" the words "Full Court" shall be inserted and the words of "Hon'ble Judges" appearing after the word "meetings of" shall be deleted.

In Resolution dated 09.09.2009 the proposed amendment of Rule 153 shall stand deleted and substituted by the following:-

In the Rules wherever the word "Registrar" appears it shall now be read as "Registrar General".

In place of the earlier Rule 2 which was to be inserted as Rule 241 a definition clause shall be inserted which shall commence with the heading "Definitions". The definitions to be inserted in Rule 2 are as follows:-

2. **Definitions** : – In these Rules, unless the context otherwise requires:-

- (a) "Administrative Judge" means any Judge who is nominated by the Chief Justice either generally or by a special order to deal with any matter connected with the establishment of the High Court ;
- (b) "Chief Justice" means the Chief Justice of the High Court of Sikkim and includes any Judge appointed by the President under Article 223 to perform the duties of the Chief Justice;
- (c) "Constitution" means the Constitution of India ;
- (d) "Full Court meeting" means a meeting of the Chief Justice and Judges of the High Court as provided in rule 234 of these Rules.
- (e) "Form" means a Form to these Rules ;
- (f) "High Court" means the High Court of Sikkim ;
- (g) "Judge" means a Judge of the High Court and includes the Chief Justice, (an acting Chief Justice, and an acting Judge of the High Court.);
- (h) "Registrar General" means the Registrar General of the High Court of Sikkim and which includes the Registrar, High Court of Sikkim ;
- (i) "Schedule" means a Schedule to these Rules ;
- (j) "State Government" means the Government of Sikkim ;

By order.

Meenakshi M. Rai
Registrar General

